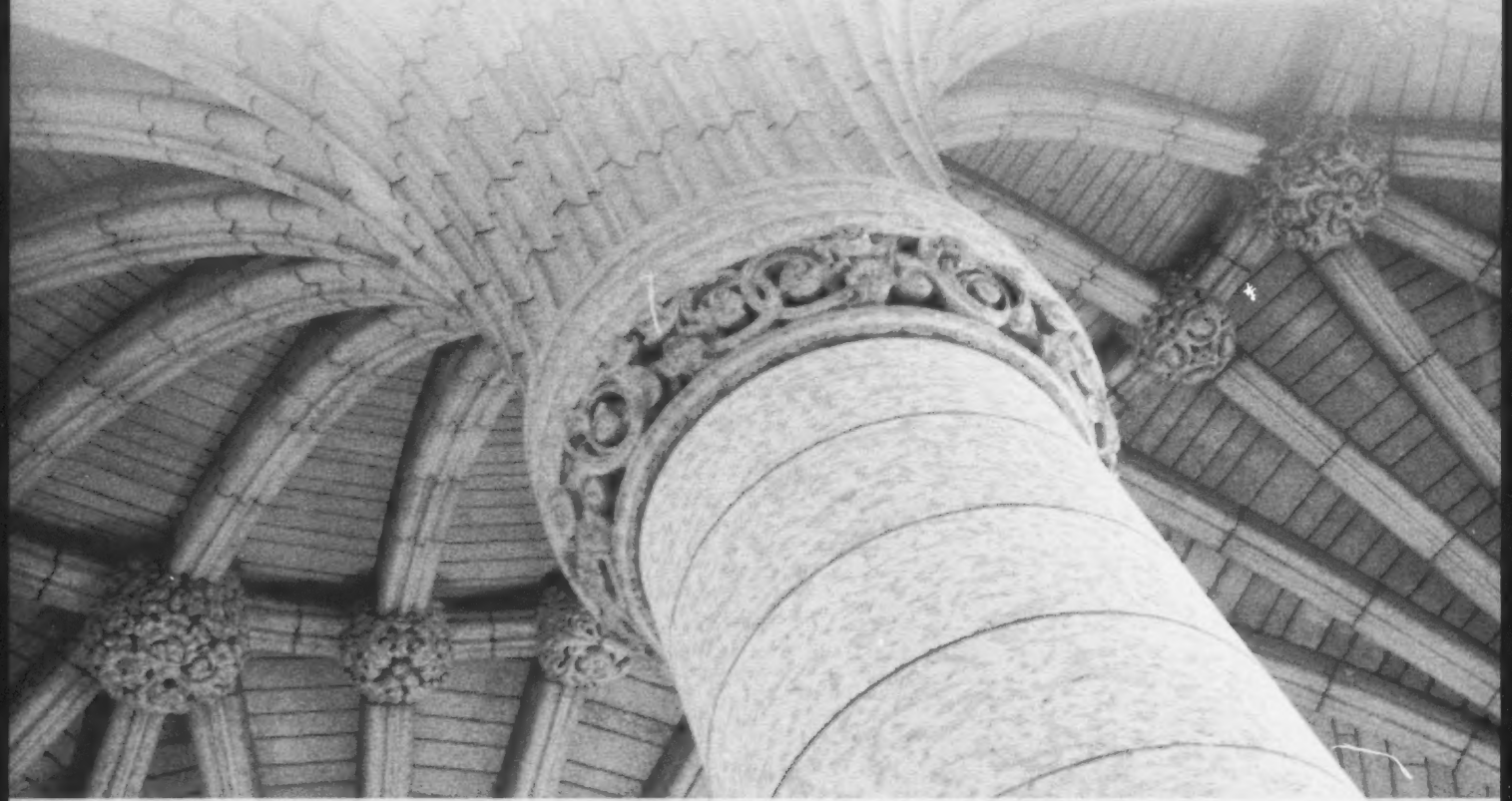
HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

ATLANTIC CANADA'S MARINE COMMERCIAL VESSEL LENGTH AND LICENSING POLICIES – WORKING TOWARDS EQUITABLE POLICIES FOR FISHERS IN ALL OF ATLANTIC CANADA

Report of the Standing Committee on Fisheries and Oceans

Bernadette Jordan, Chair



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42nd PARLIAMENT, 1st SESSION

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Bernadette Jordan
Chair

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NOTICE TO READER

Reports from committees presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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THE STANDING COMMITTEE ON FISHERIES AND OCEANS

has the honour to present its

SIXTEENTH REPORT

Pursuant to its mandate under Standing Order 108(2), the Committee has studied Atlantic Canada Commercial Vessel Length and Licensing Policies and has agreed to report the following:

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LIST OF RECOMMENDATIONS

As a result of their deliberations, committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Recommendation 1

That Fisheries and Oceans Canada consider streamlining and standardizing commercial vessel policies across the Maritimes and Newfoundland and Labrador Regions (i.e., vessel leasing and vessel licence transfer policies). 12

Recommendation 2

That Fisheries and Oceans Canada undertake a full and comprehensive review of the vessel length policy in Newfoundland and Labrador including licence holdings, equipment maximums, and vessel extensions..... 14

Recommendation 3

That by the end of the 2018 calendar year or as soon as possible thereafter, the Minister of Fisheries and Oceans and the Minister of Transport provide the Committee a written summary of input received and steps identified by the Ministers and their departmental representatives to harmonize and rationalize the process used by federal entities to license commercial vessels and increase the safety of those operating and working on those vessels. 16

Recommendation 4

That the Minister of Fisheries and Oceans or the Minister of Transport, or both Ministers, initiate the regulatory or legislative changes required to implement the steps identified to harmonize and rationalize the process used by federal entities to license commercial vessels and increase the safety of those operating and working on those vessels. 16

Recommendation 5

That any review or change of the policy be subject to full consultation with licence holders and commercial fishing enterprises in Atlantic Canada. 20

Recommendation 6

That Fisheries and Oceans Canada conduct continuous/ongoing broad based consultations and enter into dialogue with licence holders/enterprises, particularly as it relates to policy changes that would affect them, whether in-person consultations, mailed ballots/surveys or the use of online resources. 20

Recommendation 7

That Fisheries and Oceans Canada commit to more direct consultations, in relation to the vessel length policy and the licensing process. These consultations should be as inclusive as possible and include inshore fishers, groups of fishers and their bargaining agents. Efforts should be made to schedule the consultations during times when the maximum number of stakeholders can participate, backstopped by an initiative to proactively reach out to those who haven't participated in scheduled consultation events. 21

Recommendation 8

That Fisheries and Oceans Canada and Transport Canada, where appropriate, immediately move to implement a process to engage and consult with inshore fishers, groups of fishers, and their bargaining agents on identifying all the federal policies that regulate and control them, but serve no fishery management purposes beyond frustrating and damaging the relationship between fishers and Fisheries and Oceans Canada. Within this process:

1. There should be a standard set on the minimum amount of time between notice being given to fishers, and the date of the consultations to ensure that the relevant stakeholders have time to make arrangements to attend consultations on issues which directly affect them and to begin to rebuild relationships between Fisheries and Oceans Canada and fishers through good faith consultation.

2. This notice should be given in writing, either electronically or through physical mail, for the purpose of accountability, as well as advertised in a local free, and widely circulated publication. 21

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INTRODUCTION

On 26 September 2017, the House of Commons Standing Committee on Fisheries and Oceans (the Committee) agreed to "undertake a study examining commercial fishing vessel length policy as it applies to the Atlantic Provinces."[1] Policies specific to the following subjects were to be studied: commercial fishing vessel extension regulations; offshore/inshore transfer of licences; time frame for operator transfers; and combining quotas/commercial fishing vessel capacity.

From 15 February 2018 to 17 April 2018, the Committee held four meetings in Ottawa and received three briefs. Witnesses included officials from Fisheries and Oceans Canada (DFO), Transport Canada and the Transportation Safety Board of Canada (TSB), as well as fishers and groups representing the interests of the marine commercial fishing industry.

The Committee would like to extend its sincere gratitude to the witnesses who appeared before it to share their experiences and expertise.

CURRENT LICENSING REGIME AND ITS OBJECTIVES

A. Vessel Length Restrictions

DFO differentiates marine commercial inshore and offshore fleets by the length overall (LOA) of the vessel used in the fishery, which differs within the various DFO Atlantic Canada Regions (i.e., Gulf, Maritimes, Newfoundland and Labrador, and Quebec).[2] Generally, inshore fleet vessels have a LOA of less than 65 feet, whereas offshore (and midshore) fleet vessels have a LOA of more than 65 feet.[3] LOA requirements, as imposed by DFO, are also included in fishing licence conditions. Specific to the Newfoundland and

1 House of Commons, Standing Committee on Fisheries and Oceans, *Minutes*, 26 September 2017.

2 Fisheries and Oceans Canada [DFO], "Policy for Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries," ***Preserving the Independence of the Inshore Fleet***.

3 Each fishery can also have its own definition of inshore, midshore, and offshore fleets, which can include restrictions for vessel weight and length.

Labrador Region, vessel replacement rules were modified on 12 April 2007, which divided the inshore fleet into two sub-fleets: the less than 40 feet fleet (effectively, 39 feet 11 inches) and the less than 65 feet fleet (effectively, 64 feet 11 inches). In addition, inshore "fish harvesters may be permitted to use a vessel less than 27.4 m [90 feet] LOA when specific conditions are met."[4]

Section 2(1) of the *Atlantic Fishery Regulations, 1985*[5] (enabled by the *Fisheries Act*[6]) defines LOA as follows: "***overall length*** in relation to a vessel, means the horizontal distance measured between perpendicular lines drawn at the extreme ends of the outside of the main hull of the vessel." [Emphasis in the original] However, Transport Canada defines LOA as "the distance between the foremost point and the aftermost point of [a] vessel."[7] Transport Canada notes that to measure LOA, stern extensions[8] (or platforms) must be included, but the bulbous bow[9] must not be included. Therefore, DFO's LOA measurement (also known as vessel length) of a vessel would not include removable stern extensions, but Transport Canada's measurement would.

In an era of competitive fisheries, restricting vessel length was, in part, a way for DFO to restrict fishing effort for conservation purposes. As noted in a 2002 DFO discussion paper entitled *Vessel Replacement Rules and Procedures on the Atlantic Coast*, "the larger the vessel, the greater its capacity to catch fish" and to bring it ashore.[10] According to the same discussion paper, the sizes and types of vessels permitted in each fishery were those "that could support a viable enterprise within sustainable harvesting levels without undue pressure to over-exploit resources." In short, vessel length restrictions were used as a means of regulating harvest capacity.

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4 Specific conditions apply, provided fishers are part of the following fleets: NAFO (Northwest Atlantic Fisheries Organization) Divisions 2J3KL full-time Snow crab; NAFO Divisions 2J3K supplementary and the NAFO Division 3L large supplementary Snow crab; NAFO Division 3L small supplementary Snow crab licence holders who also hold a Northern shrimp licence; NAFO Division 4R Northern and Gulf shrimp fleets; or Northern shrimp licence holders who do not hold a Snow crab licence. See: DFO, *Fisheries Licensing Policy Newfoundland and Labrador Region*.

5 *Atlantic Fishery Regulations*, 1985, SOR/86-21.

6 *Fisheries Act*, R.S.C., 1985, c. F-14.

7 Transport Canada, *Fishing Vessels – Masters and Watchkeeping Officers*, March 2011.

8 Stern extensions are those located towards the stern (i.e., the back) of the boat.

9 The bulbous bow is located at the front of certain vessels, just below the waterline. Its purpose is to help reduce drag and increase speed.

10 DFO, *Vessel replacement rules and procedures on the Atlantic Coast - discussion paper*, 2002.

Individual quota (IQ) management systems[11] were later introduced by DFO to manage catch. However, vessel length restrictions remained. IQ fishers have argued that the need to control vessel length and manage vessel replacement rules was less necessary following the introduction of IQ management systems because competitiveness was all but eliminated and quota imposed a stricter limit on the quantities put ashore than vessel length restrictions did.[12]

In 2015, the majority of marine commercial fishing vessels in Atlantic Canada were less than 35 feet in length, with 52% of vessels falling within that category. The next largest vessel type being the 35 feet to 44 feet 11 inches-range, with 41% of vessels in that category. The 65 feet and greater categories of vessels (i.e., offshore fleet vessels) represented less than 2% of vessels registered in Atlantic Canada in 2015.[13] Chapter four of the Commercial Fisheries Licensing Policy for Eastern Canada – 1996 outlines the vessel replacement rules for vessels with a LOA of less than 65 feet. However, it should be noted that vessel lengths permitted in the various fisheries in Atlantic Canada are not consistent across DFO Regions.[14]

B. Roles in Marine Safety

Pursuant to the *Fisheries Act*,[15] the Minister of Fisheries and Oceans is responsible for fisheries management, but "does not regulate vessel safety, construction or integrity" because these are managed through Transport Canada regulations.[16] In fact, pursuant to the *Fishing Vessel Safety Regulations*[17] (enabled by the *Canada Shipping Act, 2001*[18]), the Minister of Transport is responsible for marine safety-related issues (both for vessels and marine personnel), even those that pertain to commercial fishing vessels. "The Transportation Safety Board of Canada (TSB) is an independent agency that advances transportation safety by investigating occurrences in the marine, pipeline, rail and air modes of transportation."[19]

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11 DFO defines individual quota (IQ) management systems as those "whereby licence holders receive a predetermined share of the total allowable catch." See: DFO, *Economic Analysis*.

12 DFO, *Vessel replacement rules and procedures on the Atlantic Coast - discussion paper*, 2002.

13 DFO, *Vessel Information*, 2015 Vessel Information.

14 DFO, Chapter Four - *Vessel replacement rules and procedures on the Atlantic Coast - discussion paper*, 2002.

15 *Fisheries Act*, R.S.C., 1985, c. F-14.

16 Personal communication with Legislation and Regulatory Affairs, DFO, 10 January 2018.

17 *Fishing Vessel Safety Regulations*, C.R.C., c. 1486.

18 *Canada Shipping Act, 2001*, S.C. 2001, c. 26.

19 Transportation Safety Board of Canada [TSB], *Home page*.

C. Vessel Extensions

Vessel extensions can take two forms: they can be located at the back of the boat (i.e., the stern), or they can be located on the side of the boat (i.e., the deck). Extensions are added to commercial fishing vessels to extend the work area or to store fishing gear. Figure 1 shows a stern extension at the back of a marine commercial fishing vessel.

Figure 1 – Commercial Fishing Vessel with Stern Extension Highlighted

Source: Image provided by the Transportation Safety Board of Canada and modified by the Library of Parliament.

According to a TSB publication, "adding a stern extension to stay within [fishing licence] length restrictions" is listed under "dangerous situations that can arise when operational needs conflict with DFO requirements" as well as a factor that can affect a vessel's stability.[20] Stern extensions have been cited in certain TSB marine investigation reports as potentially compromising vessel stability and exacerbating certain unsafe situations.

Pursuant to section 3.17(2) of the *Fishing Vessel Safety Regulations*:

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20 TSB, *Fishing Safety – Working together*.

> In the case of a fishing vessel that has undergone a stability assessment, a record of a modification or series of modifications that affects the stability of the vessel shall be kept until the vessel undergoes a new stability assessment that takes into account the modification or series of modifications.[21]

D. Time Frames for Vessel and Licence Transfers

The *Atlantic Fishery Regulations, 1985*[22] set out (among other things) vessel classes and vessel length parameters for Atlantic Canada fisheries. However, additional licensing-related regulations and policies exist in Atlantic Canada. For example: the *Aboriginal Communal Fishing Licences Regulations*[23]; the Fisheries Licensing Policy Newfoundland and Labrador Region[24]; and the Commercial Fisheries Licensing Policy for the Gulf Region[25].

As a result of these differing management tools, marine commercial fisheries are uniquely managed within DFO's Atlantic Canada Regions. As shown in Table 1, the use of various management tools can lead to inconsistencies in DFO inshore vessel and licence transfer practices across these four DFO Regions.

Table 1 – Fisheries and Oceans Canada Service Standards for Inshore Vessel and Licence Transfers

DFO Region	Service Standards	
	Inshore Vessel Transfers[a]	Inshore Licence Transfers[a]
Gulf	10 business days	30 business days
Maritimes	30 business days	30 business days
Newfoundland and Labrador	30 business days	30 business days
Quebec	20 business days	20 business days

Note: a. Service standards apply from the point that all required documents and fees have been received by DFO.

Source: Table prepared by the Library of Parliament using information obtained from communications with Legislation and Regulatory Affairs, Fisheries and Oceans Canada, 10 January 2018.

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21 *Fishing Vessel Safety Regulations*, C.R.C., c. 1486.

22 *Atlantic Fishery Regulations, 1985*, SOR/86-21.

23 *Aboriginal Communal Fishing Licences Regulations*, SOR/93-332.

24 DFO, *Fisheries Licensing Policy Newfoundland and Labrador Region*.

25 DFO, *Commercial Fisheries Licensing Policy for the Gulf Region*.

CHALLENGES IN THE CURRENT LICENSING REGIME

A. Vessel Length Restrictions

Mark Waddell, DFO, indicated that all Canadian marine commercial fisheries have vessel length restrictions.[26] Jacqueline Perry, DFO, explained that these restrictions were implemented in the 1970s as a means to control harvest capacity for conservation reasons and were "applied in competitive fisheries to control the catching capacity of vessels."[27]

As previously mentioned, IQ management systems were later introduced by DFO to manage catch, but vessel length restrictions remained in place.[28] Jacqueline Perry explained that vessel length restrictions are still relevant today and that they "provide for an equitable and orderly harvest of fishing resources, promote viable and profitable operations for the average participant, and promote consistency while recognizing that specific provisions may be necessary for certain fisheries and geographical locations."[29]

B. Fishery Management Systems

Jacqueline Perry also explained that both competitive and IQ fisheries take place in Atlantic Canada and that many fishers are said to hold licences for both types of fisheries because "fishing enterprises tend to be multi-species, which means they can fish groundfish, shellfish, pelagics, etc."[30] According to DFO, in the case of both IQ and competitive fisheries, increasing the size of vessels permitted could allow fishers to "carry more gear and fish in potentially more challenging environmental conditions, thereby" providing those fishers with "competitive access to preferential grounds."[31]

In contrast, Collin Greenham, Fish Harvester, noted that all key species in Newfoundland are either IQ fisheries or managed by a trip limit[32] and Glen Best, Fish Harvester, explained that he did not know "if there is a truly competitive fishery out there

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26 Mark Waddell, Acting Director General, Licensing and Planning, DFO, *Evidence*, 15 February 2018.

27 Jacqueline Perry, Regional Director General, Region - Newfoundland and Labrador, DFO, *Evidence*, 15 February 2018.

28 DFO, *Vessel replacement rules and procedures on the Atlantic Coast - discussion paper*, 2002.

29 Jacqueline Perry, Regional Director General, Region - Newfoundland and Labrador, DFO, *Evidence*, 15 February 2018.

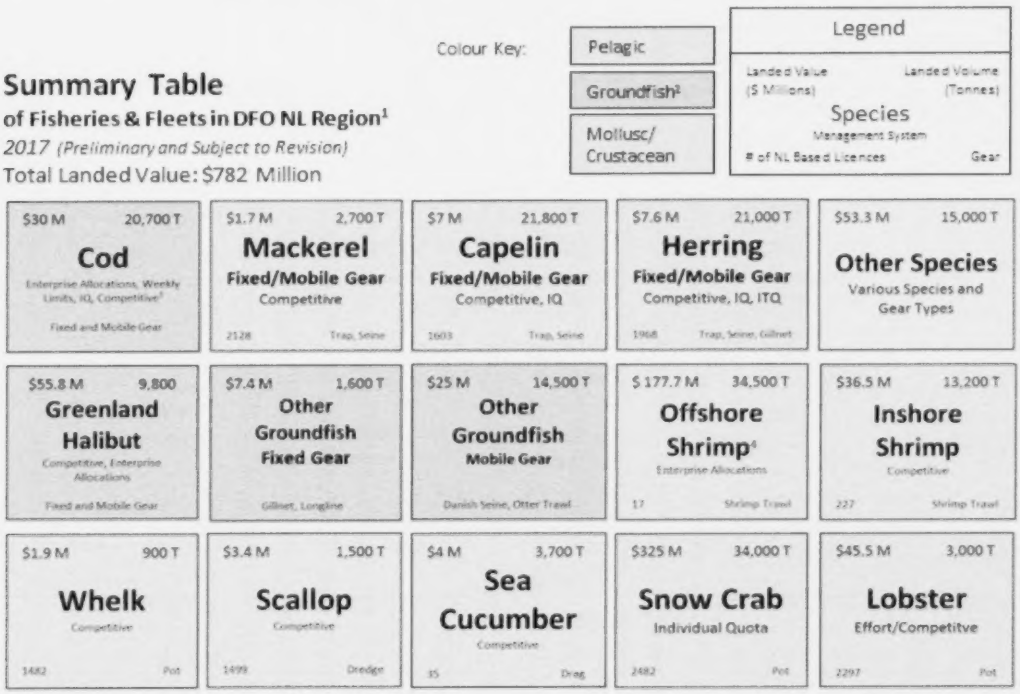
30 Ibid.

31 Ibid.

32 Collin Greenham, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

anymore."[33] Eldred Woodford, Fish Harvester, dissented by agreeing with DFO and noted that there are still many competitive fisheries in Newfoundland and Labrador.[34] Figure 2 shows Newfoundland and Labrador Region fisheries and their management systems (i.e., IQ, competitive-based, etc.). However, DFO did not provide the Committee with an accurate proportion of IQ and competitive fisheries for the Newfoundland and Labrador Region.

Figure 2 – Summary Table of Fisheries and Fleets in Fisheries and Oceans Canada's Newfoundland and Labrador Region, 2017



[1] Landed volume refers to fish landings in the Newfoundland and Labrador (NL) Region and includes landings by fishing enterprises based outside of NL.
[2] Cod and Greenland halibut are fished under groundfish licences. In the NL Region, there are 3,245 fixed gear and 76 mobile gear groundfish licences.
[3] 2J3KL cod – weekly limits; 3Ps cod – Individual Quotas (IQ)/Enterprise Allocations; 4R3Pn Cod – Competitive.
[4] Offshore shrimp licences are Atlantic Wide. Only NL landings shown.

Source: Fisheries and Oceans Canada, 29 March 2018.

33 Glen Best, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

34 Eldred Woodford, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

C. Past Changes to Vessel Length Restrictions

While appearing before the Committee, DFO representatives disclosed that the Department reviews individual requests from harvesters for vessel length exemptions on a case-by-case basis; factors such as conservation, competition, economic viability of the fleet, and vessel design are considered. However, Jacqueline Perry noted that granting these exemptions has created controversy within fleets in the past and "DFO's approach to requests for individual exemptions is to deny them."[35] Jason Sullivan, Fish Harvester, explained that on 23 May 2017, "the new vessel registration form was released,"[36] effectively changing the definition of LOA in the Newfoundland and Labrador Region once again.[37] The Committee did not get more information on whether changing the vessel registration form triggered DFO's approach to denying requests for individual exemptions or if this approach was long standing.

It was also explained that although the Department gets individual requests from harvesters for exemptions, "there has been no significant interest in review by major fisheries organizations,"[38] but DFO indicated that it is open to discussing with fleets whether current vessel rules are appropriate or if changes are required for their specific fleet.[39] Jacqueline Perry explained that requests for change would need to be: supported by a clear majority of fleet participants; and could not compromise conservation or established fishery management objectives.[40] Eldred Woodford corroborated that sentiment and noted that to his knowledge, when a policy change has been supported by the majority of fishers, "we have had little trouble over the years getting DFO to come onside."[41]

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35 Jacqueline Perry, Regional Director General, Region - Newfoundland and Labrador, DFO, *Evidence*, 15 February 2018.

36 Jason Sullivan, Fish Harvester, As an Individual, *Evidence*, 22 March 2018.

37 Jason Sullivan explained to the Committee that when he first contemplated adding a stern extension to his new vessel, DFO's licensing department informed him that if it was removable, it would not be included in the definition of LOA. The Committee did not get more information on how LOA is measured in the Newfoundland and Labrador Region following the definition change.

38 Jacqueline Perry, Regional Director General, Region - Newfoundland and Labrador, DFO, *Evidence*, 15 February 2018.

39 As defined in the Fisheries Licensing Policy Newfoundland and Labrador Region, a fleet: includes fishers who fish the same species, "and/or have the same vessel size category, and/or fish from the same fishing area."

40 Jacqueline Perry, Regional Director General, Region - Newfoundland and Labrador, DFO, *Evidence*, 15 February 2018

41 Eldred Woodford, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

DFO provided examples of changes made to vessel replacement rules over the years, effectively changing vessel length restrictions or the manner in which changes to vessel length are considered: in 2003, following industry consultations, a new 10-principled approach was agreed upon when looking to modify vessel replacement rules[42]; the vessel replacement rules for the Newfoundland and Labrador Region were changed in 2007 following industry consultations[43]; the Quebec Region's vessel replacement policy was changed in 2014 after "extensive consultations with its industry liaison committee."[44] Fleet-specific examples of changes were also provided to the Committee, such as the 2012 changes to the Area 12 snow crab fleet (eastern New Brunswick/Gulf of Nova Scotia); this change saw vessel lengths increase up to a maximum of 100 feet (or 30.5 meters).[45]

WORKING TOWARDS EQUITABLE POLICIES FOR FISHERS IN ALL OF ATLANTIC CANADA

A. Operator Transfer Time Frames

Ryan Cleary, Federation of Independent Sea Harvesters of Newfoundland and Labrador (FISH-NL), spoke to important discrepancies in operator transfer time frames. He noted the following times: one year in Newfoundland and Labrador, one month in Nova Scotia, and one day on the Conne River Indian Reserve, Newfoundland and Labrador. According to Ryan Cleary, these discrepancies create economic disadvantages for Newfoundland and Labrador inshore fishers and he recommended that transfer time frames be standardized across DFO Regions.[46] Roy Careen, Fish Harvester, agreed, stating that a fisher "in Nova Scotia, our neighbouring province, can lease a boat for one month, and that Nova Scotia fisherman is then free to use his vessel after one month to fish other species. A fisherman like me in Newfoundland must wait 12 months to do the same."[47]

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42 The 10 principles were agreed upon by DFO and industry representatives to be used when looking to modify vessel length restrictions in certain fleets. These principles are: "conservation, fleet capacity, self-adjustment mechanisms, vessel safety, enterprise viability, fleet shares, core members, readily enforceable mechanisms, consistency with licensing policy, and consideration of the multi-licence nature of fishing enterprises in Atlantic Canada." See: Mark Waddell, Acting Director General, Licensing and Planning, DFO, *Evidence*, 17 April 2018.

43 DFO, *Fisheries Licensing Policy Newfoundland and Labrador Region*.

44 Jacqueline Perry, Regional Director General, Region - Newfoundland and Labrador, DFO, *Evidence*, 15 February 2018.

45 Ibid.

46 Ryan Cleary, President, Federation of Independent Sea Harvesters of Newfoundland and Labrador [FISH-NL], *Evidence*, 22 March 2018.

47 Roy Careen, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

Henry Thorne, Fish Harvester, explained that fishers should be able to determine the time frame of operator transfers that best suits them and that the 12-month requirement in Newfoundland and Labrador "doesn't work."[48]

Recommendation 1

That Fisheries and Oceans Canada consider streamlining and standardizing commercial vessel policies across the Maritimes and Newfoundland and Labrador Regions (i.e., vessel leasing and vessel licence transfer policies).

B. Length of New Vessels

Jason Sullivan recounted his personal experience commissioning the construction of a new commercial fishing vessel for use in the Newfoundland and Labrador Region.[49] He explained that prior to commissioning the new vessel, he consulted with DFO officials to ensure that the removable seven foot extension he was commissioning would meet DFO licensing conditions, which the licensing department said it would. However, Jason Sullivan explained that when came time to register his new vessel, he was advised that the definition of vessel length was under review, effectively jeopardizing the registration.

Similarly, John Will Brazil, Fish Harvester, spoke to the Committee about how DFO enforced a policy that was not in place when he undertook modifications to his fishing vessel, causing him and his family "great financial and mental stress."[50] The Committee heard fishers express their frustration with DFO's Newfoundland and Labrador regional office and provide examples of changing policies and frequent delays that caused uncertainty and unnecessary stress.

The TSB explained to what lengths many fishers have gone to modify their vessels (e.g., by cutting the bow, adding a stern extension or widening the vessel) "to maximize their efficiency while remaining within" the length restrictions imposed by DFO[51].

C. Changing Vessel Length Restrictions

DFO provided socio-economic reasons for limiting vessel length. Market fluctuations and resource availability were noted as affecting the profitability of fishing enterprises, which can be exacerbated by the overall purchase and maintenance costs associated with

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48 Henry Thorne, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

49 Jason Sullivan, Fish Harvester, As an Individual, *Evidence*, 22 March 2018.

50 John Will Brazil, Fish Harvester, As an Individual, *Evidence*, 22 March 2018.

51 Jean Laporte, Chief Operating Officer, TSB, *Evidence*, 22 March 2018.

larger vessels. As a result, "new fishers face a barrier to entry in that it is much more expensive to purchase a fishing enterprise" and existing fishers may have difficulty making larger boat payments as resource prices fluctuate.[52] Keith Smith, Fish, Food and Allied Workers (FFAW), supported this theory by stipulating that fishers in the inshore fleet of Trinity Bay, Newfoundland and Labrador, are of the opinion that if vessel sizes increase, "we will need more resource."[53]

In response to DFO providing socio-economic reasons for limiting vessel length, Glen Best suggested that the department's role is to manage fish stocks, but not the competitiveness of the industry.[54] Henry Thorne explained that depending on fishing conditions, increasing vessel length could help fishers catch better quality fish.[55]

Eldred Woodford sided with DFO and added that should vessel length restrictions be changed to allow for larger vessels, those who could not afford larger vessels could be disadvantaged and choose to fish in more perilous conditions.[56] Keith Smith noted that more than 90% of crab fishers in his area do not want the vessel replacement policy changed.[57]

In Jason Sullivan's opinion, however, restricting "[v]essel length is obsolete in the modern-day fishery."[58] According to Ryan Cleary, most fishers think vessel length should be standardized across Atlantic Canada (to 44 feet 11 inches) and safety should be the primary consideration.[59] In Jason Sullivan's view, "[a]t the very least, Newfoundland should have the same base length as every other Atlantic province: 44 feet 11 inches"[60] (current base level length in the Newfoundland and Labrador Region is 39 feet 11 inches). However, fishers in the 45 foot and above fleet would not be in favour of increasing vessel size as doing so would give larger vessels "an advantage in competitive

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52 Patrick Vincent, Regional Director General, Region – Québec, DFO, *Evidence*, 15 February 2018.

53 Keith Smith, Inshore Council Member, Fish, Food and Allied Workers [FFAW], *Evidence*, 27 March 2018.

54 Glen Best, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

55 Henry Thorne, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

56 Eldred Woodford, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

57 Keith Smith, Inshore Council Member, FFAW, *Evidence*, 27 March 2018.

58 Jason Sullivan, Fish Harvester, As an Individual, *Evidence*, 22 March 2018.

59 Ryan Cleary, President, FISH-NL, *Evidence*, 22 March 2018.

60 Jason Sullivan, Fish Harvester, As an Individual, *Evidence*, 22 March 2018.

fisheries" now and in future.[61] In Collin Greenham's opinion, vessel length should be decided between the fisher and Transport Canada.[62]

Henry Thorne indicated that vessel capacity and the use of extensions "should be left up to the individual fisher person, because they may need a bigger boat to be safer and to catch better quality fish."[63] In addition, the Committee heard that although a vessel may meet DFO-imposed vessel length restrictions, its width is not regulated by the department and can be as wide as it is long, increasing its carrying capacity significantly. Collin Greenham explained that the new 39 feet 11 inch vessels are 28 feet wide and are characterized as "boxes" and "really expensive to operate."[64]

Recommendation 2

That Fisheries and Oceans Canada undertake a full and comprehensive review of the vessel length policy in Newfoundland and Labrador including licence holdings, equipment maximums, and vessel extensions.

D. Inter-departmental Cooperation

Mark Waddell explained that a memorandum of understanding (MOU) was signed by DFO (including the Canadian Coast Guard) and Transport Canada in 2006 and renewed in 2015.[65] This MOU on the safety at sea of commercial fish harvesters "provides a framework for cooperation between the two departments on marine safety."[66] However, Jean Laporte, TSB, explained that the MOU was only fully implemented a few years ago.[67] Unfortunately, the Committee did not get clarification on when, specifically, the MOU was fully implemented. Mark Waddell also explained that a letter of intent was signed by DFO and Transport Canada in 2011 regarding information sharing for policy and regulatory development purposes.[68]

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61 Ryan Cleary, President, FISH-NL, *Evidence*, 22 March 2018.

62 Collin Greenham, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

63 Henry Thorne, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

64 Collin Greenham, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

65 Mark Waddell, Acting Director General, Licensing and Planning, DFO, *Evidence*, 15 February 2018.

66 Government of Canada, MOU between DFO, CCG and TC Safety at Sea update – CMAC Fishing Vessel Safety Standing Committee, December 2017.

67 Jean Laporte, Chief Operating Officer, TSB, *Evidence*, 22 March 2018.

68 Mark Waddell, Acting Director General, Licensing and Planning, DFO, *Evidence*, 15 February 2018.

Patrick Vincent, DFO, conveyed that in the Quebec Region, a standing committee on fishing vessel safety meets every February to hold a workshop for fishers on vessel safety. Participants include representatives from Transport Canada, DFO (including the Canadian Coast Guard), and "Quebec's labour standards, equity and occupational health and safety board."[69]

Inconsistencies in how the length of a vessel is measured by DFO and Transport Canada were noted by several witnesses. A fishing vessel could be deemed to have two distinct lengths; one measured by DFO to comply with fishing licence conditions (which would not include removable stern extensions), and another with Transport Canada (which would include removable stern extensions).[70] Luc Tremblay, Transport Canada, confirmed that DFO and Transport Canada discussed these discrepancies as a result of the MOU, but "[o]bviously, there is no uniformity at this point."[71]

Jacqueline Perry explained that, operationally, DFO consults with Transport Canada "on a day-to-day basis with respect to specific questions from our officials."[72] However, after hearing testimony from both departments, the Committee still questions the effectiveness of current inter-departmental consultations on policy matters of importance to fish harvesters, such as the impacts of vessel length restrictions on marine safety.

E. Marine Safety

Jean Laporte explained to the Committee that "[o]ver the past five years, there have been 43 deaths because of fishing-related accidents," which equals an average of 8.6 fatalities per year.[73] The recently updated *Fishing Vessel Safety Regulations*[74] came into force on 13 July 2017 and Jane Weldon, Transport Canada, explained that the new Regulations would "address a number of outstanding TSB recommendations regarding fishing vessel safety and [are] expected to reduce fishing vessel-related fatalities."[75]

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69 Patrick Vincent, Regional Director General, Region – Québec, DFO, Evidence, 15 February 2018.

70 Marc-André Poisson, Director, Marine Investigations, TSB, Evidence, 22 March 2018.

71 Luc Tremblay, Executive Director, Domestic Vessel Regulatory Oversight and Boating Safety, Transport Canada, Evidence, 22 March 2018.

72 Jacqueline Perry, Regional Director General, Region - Newfoundland and Labrador, DFO, Evidence, 17 April 2018.

73 Jean Laporte, Chief Operating Officer, TSB, Evidence, 22 March 2018.

74 Fishing Vessel Safety Regulations, C.R.C., c. 1486.

75 Jane Weldon, Director General, Marine Safety and Security, Transport Canada, Evidence, 22 March 2018.

However, Mervin Wiseman, FISH-NL, noted that DFO has not implemented recommendations provided in the TSB's investigation reports and recommended that an arbitration body be struck to ensure implementation.[76]

1. Vessel Registration

Jean Laporte explained that in marine safety investigations, the TSB found that certain vessels involved in incidents/accidents were issued a fishing licence by DFO, but that the vessels used were not registered with Transport Canada. He noted that this pointed to a "gap in the coordination of regulatory oversight."[77] Jean Laporte also explained that, in British Columbia, DFO "implemented a regional policy to ensure that commercial fishing vessels registering with DFO have also registered with [Transport Canada]" but that this policy is not applied Canada-wide. Finally, Jean Laporte recommended that "before granting a licence, DFO should check with Transport Canada to see whether the vessel is registered and whether stability was assessed." Mark Waddell did note that DFO was "looking to explore and update our operational policies" in that regard.[78] Jean Laporte went on to say that DFO does not appear to give adequate consideration to safety when issuing fishing licences.[79]

Recommendation 3

That by the end of the 2018 calendar year or as soon as possible thereafter, the Minister of Fisheries and Oceans and the Minister of Transport provide the Committee a written summary of input received and steps identified by the Ministers and their departmental representatives to harmonize and rationalize the process used by federal entities to license commercial vessels and increase the safety of those operating and working on those vessels.

Recommendation 4

That the Minister of Fisheries and Oceans or the Minister of Transport, or both Ministers, initiate the regulatory or legislative changes required to implement the steps identified to harmonize and rationalize the process used by federal entities to license commercial vessels and increase the safety of those operating and working on those vessels.

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76 Mervin Wiseman, Member, FISH-NL, *Evidence*, 22 March 2018.

77 Jean Laporte, Chief Operating Officer, TSB, *Evidence*, 22 March 2018.

78 Mark Waddell, Acting Director General, Licensing and Planning, DFO, *Evidence*, 17 April 2018.

79 Ibid.

2. Vessel Modifications and Stability Assessments

Jean Laporte clarified that vessel extensions are not inherently unsafe.[80] Although vessel modifications do not require prior Transport Canada approval,[81] the *Fishing Vessel Safety Regulations* require that a new stability assessment be undertaken if a vessel extension is added or if any other work is undertaken that may impact vessel stability. However, the Committee learned that it is left to the fisher's discretion whether the work is deemed to have impacted vessel stability or not.[82] In fact, Luc Tremblay explained that "[s]ome modifications are not enough by themselves to trigger a reassessment. They're minor. Others may be enough to trigger an assessment, and sometimes the sum of the modifications will trigger it."[83] However, the Committee was not provided with the timeframe in which a new vessel stability assessment is required after stability-affecting modifications are made.

If vessel stability is in fact affected by a modification and a new stability assessment is not undertaken, the Committee heard that vessel extensions can contribute to incidents/accidents.[84] Examples provided in TSB investigations speak to stern extensions being used by fishers to increase vessel capacity, while also complying with DFO licence conditions. Marc-André Poisson, TSB, reiterated that vessel extensions do not constitute a "single-point failure" that cause incidents/accidents, but are one of multiple issues that can contribute to one.[85]

3. Policies and Inspections

According to TSB testimony, DFO does not have a process to effectively assess the impacts of its policies on marine safety.[86] Jean Laporte recommended that Transport Canada and DFO work more closely to improve the situation.[87]

Collin Greenham provided the Committee with an example supporting the TSB testimony. He noted that DFO regulations have forced Newfoundland and Labrador's

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80 Jean Laporte, Chief Operating Officer, TSB, *Evidence*, 22 March 2018.

81 Jane Weldon, Director General, Marine Safety and Security, Transport Canada, *Evidence*, 22 March 2018.

82 Ibid.

83 Luc Tremblay, Executive Director, Domestic Vessel Regulatory Oversight and Boating Safety, Transport Canada, *Evidence*, 22 March 2018.

84 Marc-André Poisson, Director, Marine Investigations, TSB, *Evidence*, 22 March 2018.

85 Ibid.

86 Jean Laporte, Chief Operating Officer, TSB, *Evidence*, 22 March 2018.

87 Ibid.

fishers to fish for turbot further into the "open, unprotected and dangerous waters of the North Atlantic," near the continental shelf. In the past, turbot was fished near shore. Although the areas in which they fish have greatly changed, Collin Greenham confirmed that vessel length restrictions have not been modified accordingly.[88] Derek Butler corroborated this testimony by explaining that "[e]verything has changed in the industry, including how far from shore people fish, amount of fish carried, nature of equipment on boats, booms, hold sizes, etc."[89]

Luc Tremblay explained that Transport Canada regulates vessels of all sizes, but that the "number of mandatory inspections increases with the size of the vessel."[90] He went on to explain that although smaller vessels need to meet safety provisions set out in regulations, they do not have to be inspected by Transport Canada to ensure compliance.

Jason Sullivan indicated that smaller fishing vessels "don't fall under the CSI" [Canadian Steamship Inspection], which imposes an inspection of the vessel every four years and requires the carrying of additional safety equipment.[91] He continued by saying that only vessels "over [...] 12 meters" would fall under the CSI rules.

According to Jason Sullivan, general DFO fishery-related policies (i.e., short-term leases, vessel length restrictions) should apply equally to fishers in all Atlantic Canada – like the Transport Canada policies do – to "put us all on a level playing field." He went on to explain that differing policies provide certain competitive advantages and disadvantages to fishers in different Atlantic Provinces.[92] Ryan Cleary concurred by adding that vessel length and other general policies (i.e., those that are not fishery-specific) should be standardized across Atlantic Canada to ensure fairness.[93]

Mervin Wiseman explained to the Committee that, "[u]nfortunately, the vessel length and licensing [policies], which were designed to meet the needs of a 1970s fishery, have not fundamentally adapted to the realities of the current operating environment."[94]

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88 Collin Greenham, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

89 Derek Butler, As an Individual, *Brief*, submitted on 19 April 2018.

90 Luc Tremblay, Executive Director, Domestic Vessel Regulatory Oversight and Boating Safety, Transport Canada, *Evidence*, 22 March 2018.

91 Jason Sullivan, Fish Harvester, As an Individual, *Evidence*, 22 March 2018.

92 Ibid.

93 Ryan Cleary, President, FISH-NL, *Evidence*, 22 March 2018.

94 Mervin Wiseman, Member, FISH-NL, *Evidence*, 22 March 2018.

According to Roy Careen, "[t]imes change, and so should the policies, rules and regulations put forward by DFO and our union."[95]

F. Combining and Buddy-up Arrangements

The Committee heard that in the Newfoundland and Labrador Region, fishers can combine quotas and enter into buddy-up arrangements. "Combining" was defined as "multiple IQs harvested off the same vessel" and "buddy-up arrangements" were defined as "not a full permanent combining of quotas, but harvesters in some fleets are eligible to work together and harvest together on one boat."[96]

Henry Thorne is of the opinion that combining is "one of the best policies that DFO has in place to help" fishers and that the policy provides a way for fishers to expand their enterprises and retire with dignity.[97] However, capping the number of licences that can be combined is seen as preventing fishers from further expanding their enterprises and allowing processors to purchase those licences instead.[98] In addition, Collin Greenham noted that this combining practice could offset the financial burden on enterprises that see their quota cut from one year to the next.[99]

Glen Best explained that buddy-up agreements lower operating costs and make fishing enterprises more profitable.[100] Similarly to combining, Jason Sullivan explained that buddy-up arrangements have a maximum number of enterprises that can be stacked (five in total), which limits opportunities for fishers.[101]

The Committee also heard that certain fisheries do not permit buddy-up arrangements, such as the tuna fishery, which "is an IQ fishery, and each boat is given a certain number of tuna tags."[102] Roy Careen explained that in 2017, he and his son were each allotted seven tuna tags, but were unable to buddy-up and catch all 14 tags in the same vessel, forcing them both to make the trip across the gulf in their respective vessels, a costly endeavour.

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95 Roy Careen, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

96 Jacqueline Perry, Regional Director General, Region - Newfoundland and Labrador, DFO, *Evidence*, 17 April 2018.

97 Henry Thorne, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

98 Ibid.

99 Collin Greenham, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

100 Glen Best, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

101 Jason Sullivan, Fish Harvester, As an Individual, *Evidence*, 22 March 2018.

102 Roy Careen, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

The Committee was also informed that fishers in the Maritimes Region have other means of reconciling their businesses (e.g., partnerships, stacking, and benefit combining), but that these programs were different from the ones in the Newfoundland and Labrador Region;[103] yet another discrepancy between DFO Regions.

G. Consultation

The Committee heard considerable testimony about DFO's consultation process and whom they chose to consult. Ryan Cleary recommended that DFO consult directly with inshore harvesters on policies and not solely with their bargaining agents.[104] On this note, Ryan Cleary was supportive of DFO holding 20 meetings with fishers around Newfoundland and Labrador in the Fall and Winter of 2017 in an effort to reconnect with them. He went on to say that "FISH-NL recommends that such meetings be held on a continuous basis."[105] Roy Careen also stressed that fishers directly affected by policy and regulation changes should be consulted by DFO and their union.[106]

In the Committee's opinion, given the high-cost investments required from fishers (e.g., to purchase a vessel, gear, monitoring equipment, and more), it is important for the federal government to create conditions contributing to long-term certainty in the industry; changing vessel length restrictions and other licensing policies without broad consultation is not conducive to ensuring that long-term certainty. The Committee encourages DFO to continue broadly and regularly consulting fishers and their bargaining agents to ensure their feedback is heard prior to the implementation of policy or regulatory changes.

Recommendation 5

That any review or change of the policy be subject to full consultation with licence holders and commercial fishing enterprises in Atlantic Canada.

Recommendation 6

That Fisheries and Oceans Canada conduct continuous/ongoing broad based consultations and enter into dialogue with licence holders/enterprises, particularly as it

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103 Verna Docherty, Acting Manager, Licensing Policy and Operations, Region - Maritimes, DFO, *Evidence*, 17 April 2018.

104 Ryan Cleary, President, FISH-NL, *Evidence*, 22 March 2018.

105 Ibid.

106 Roy Careen, Fish Harvester, As an Individual, *Evidence*, 27 March 2018.

relates to policy changes that would affect them, whether in-person consultations, mailed ballots/surveys or the use of online resources.

Recommendation 7

That Fisheries and Oceans Canada commit to more direct consultations, in relation to the vessel length policy and the licensing process. These consultations should be as inclusive as possible and include inshore fishers, groups of fishers and their bargaining agents. Efforts should be made to schedule the consultations during times when the maximum number of stakeholders can participate, backstopped by an initiative to proactively reach out to those who haven't participated in scheduled consultation events.

Recommendation 8

That Fisheries and Oceans Canada and Transport Canada, where appropriate, immediately move to implement a process to engage and consult with inshore fishers, groups of fishers, and their bargaining agents on identifying all the federal policies that regulate and control them, but serve no fishery management purposes beyond frustrating and damaging the relationship between fishers and Fisheries and Oceans Canada. Within this process:

1. **There should be a standard set on the minimum amount of time between notice being given to fishers, and the date of the consultations to ensure that the relevant stakeholders have time to make arrangements to attend consultations on issues which directly affect them and to begin to rebuild relationships between Fisheries and Oceans Canada and fishers through good faith consultation.**

2. **This notice should be given in writing, either electronically or through physical mail, for the purpose of accountability, as well as advertised in a local free, and widely circulated publication.**

CONCLUSION

DFO manages fishery resources by controlling catch with various tools, including (but not limited to): licence conditions; quotas; trip, daily, and weekly limits; and gear restrictions. With all these measures in place, the Committee is not convinced with the need for vessel length restrictions imposed on inshore fishers. In addition, the Committee believes that inshore licensing policies and regulations should not differ from one Atlantic Province to another. However, the Committee also recognizes that any

change to current licensing policies and regulations need to be supported by a majority of inshore fishers.

The Committee heard that fishers need multiple fishing licences for different species to remain sustainable and that the inshore fishing industry has changed significantly over the years – whether that change be in the species that are fished, the gear that is used, the areas where fishing is permitted, the business environment or the demographics of participants. In the Committee's view, given these shifting conditions, the licensing regime needs to be flexible and adaptive. However, marine safety should be an important consideration in the modernization of licensing policies and regulations.

APPENDIX A
LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
Department of Fisheries and Oceans	2018/02/15	87
Verna Docherty, Acting Manager Licensing Policy and Operations, Region – Maritimes		
Marc LeCouffe, Director Resource and Aboriginal Fisheries Management, Region - Gulf		
Jacqueline Perry, Regional Director General Region - Newfoundland and Labrador		
Patrick Vincent, Regional Director General Region - Québec		
Mark Waddell, Acting Director General Licensing and Planning		
As an individual	2018/03/22	90
John Will Brazil, Fish Harvester		
Jason Sullivan, Fish Harvester		
Department of Transport		
Luc Tremblay, Executive Director Domestic Vessel Regulatory Oversight and Boating Safety		
Jane Weldon, Director General Marine Safety and Security		
Federation of Independent Sea Harvesters of Newfoundland and Labrador		
Ryan Cleary, President		
Mervin Wiseman, Member		
Transportation Safety Board of Canada		
Jean L. Laporte, Chief Operating Officer		
Marc-André Poisson, Director Marine Investigations		
As individuals	2018/03/27	91
Glen Best, Fish Harvester Glen and Jerry Fisheries Inc.		

Organizations and Individuals	Date	Meeting
As individuals (cont'd)	2018/03/27	91
Roy Careen, Fish Harvester CHY Enterprises Limited		
Collin Greenham, Fish Harvester		
Billy Stratton, Fish Harvester		
Henry Thorne, Fish Harvester		
Eldred Woodford, Fish Harvester		
Fish, Food and Allied Workers		
Keith Smith, Fish Harvester and Inshore Council Member		
Department of Fisheries and Oceans	2018/04/17	93
Verna Docherty, Acting Manager Licensing Policy and Operations, Region - Maritimes		
Marc LeCouffe, Director Resource and Aboriginal Fisheries Management, Region - Gulf		
Jacqueline Perry, Regional Director General Region - Newfoundland and Labrador		
Patrick Vincent, Regional Director General Region - Québec		
Mark Waddell, Acting Director General Licensing and Planning		

APPENDIX B
LIST OF BRIEFS

Organizations and Individuals

Butler, Derek

Dobbin, Michael

Dolton, Ron

Doyle, Tony

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* (Meetings Nos. 87, 90, 91, 93, 94, 104 and 107) is tabled.

Respectfully submitted,

Bernadette Jordan
Chair